

VZCZCXYZ0001
RR RUEHWEB

DE RUEHLP #0031/01 0391514
ZNY CCCCC ZZH
R 081514Z FEB 10
FM AMEMBASSY LA PAZ
TO RUEHC/SECSTATE WASHDC 0637
INFO RHEFDIA/DIA WASHINGTON DC
RHEHAAA/NATIONAL SECURITY COUNCIL WASHINGTON DC
RHMFISS/HQ USSOUTHCOM MIAMI FL
RUEAIIA/CIA WASHINGTON DC
RUEHAC/AMEMBASSY ASUNCION
RUEHBO/AMEMBASSY BOGOTA
RUEHBR/AMEMBASSY BRASILIA
RUEHBU/AMEMBASSY BUENOS AIRES
RUEHCV/AMEMBASSY CARACAS
RUEHLP/AMEMBASSY LA PAZ
RUEHMN/AMEMBASSY MONTEVIDEO
RUEHPE/AMEMBASSY LIMA
RUEHQD/AMEMBASSY QUITO
RUEHSG/AMEMBASSY SANTIAGO
RUEHUB/USINT HAVANA 0067
RUEKJCS/SECDEF WASHINGTON DC

C O N F I D E N T I A L LA PAZ 000031

SIPDIS

E.O. 12958: DECL: 2020/02/08

TAGS: PGOV PREL KDEM PHUM PINR BL

SUBJECT: GOB USING JUDICIAL REFORM TO HUNT OPPOSITION?

REF: 10 LA PAZ 29; 09 LA PAZ 1605; 09 LA PAZ 659; 08 LA PAZ 2464

DERIVED FROM: DSCG 05-1 B, D

¶1. (C) Summary: President Morales and his ruling Movement Toward Socialism party (MAS) are accelerating the pace of judicial reform and moving to increase control over Bolivia's divided judiciary. GOB representatives say legislation is needed to appoint temporary justices to the Supreme Court and Constitutional Tribunal, both of which lack personnel and together face several thousand pending cases. Members of the political opposition fear the reforms are aimed at boosting legal harassment of their leaders, some of whom are already being prosecuted for corruption or alleged involvement in an April 2009 terrorism case (Reftel C). We share the concern that MAS control over the judiciary could lead to political prosecutions, but note that -- to date -- many of the cases brought against opposition members appear to have some merit. End summary.

Judicial Reform Legislation - "Ley Corta"

¶2. (U) Bolivia's new constitution requires passage of several implementing laws (Reftel A) to reform the judiciary. The legislation would, among other things, redefine the process for selecting judges and magistrates for the Supreme Court and Constitutional Tribunal, respectively. The constitution outlines the new process generally, in which the Plurinational Assembly will nominate judicial candidates for the public to vote on. GOB representatives say developing and passing the implementing legislation, nominating candidates, and then holding elections could take up to a year to accomplish.

¶3. (U) In the interim, President Morales has called for passage of stopgap legislation, or a "ley corta," to designate transitional authorities for the Supreme Court and the Constitutional Tribunal. Due to a growing shortage of judges on the Supreme Court and a total lack of magistrates in the Constitutional Tribunal (Reftel D), each body faces a backlog of several thousand cases. GOB representatives say the courts cannot afford more delay. As written, the ley corta would allow President Morales to select

temporary judges and magistrates unilaterally until elections are held on December 5. Political opposition members and some constitutional law experts claim such a process would violate the constitution, but it appears the law is set to be approved imminently.

Opposition: Judicial Reform Precursor to Persecution

¶4. (U) While all agree there is a need for judicial reform to begin processing pending cases, the political opposition claims the MAS' recipe for reform is also designed to speed the process of political persecution against their leadership. In addition to pending corruption cases against ex-Cochabamba Prefect and presidential candidate Manfred Reyes Villa (Reftel B), prosecutors on February 1 formally charged several Santa Cruz political and business leaders of aiding an alleged armed terrorist uprising (Reftel C), including former Civic Committee President Branko Marinkovic, retired army general Lucio AClez, current Civic Committee Vice President Guido Nayar, and at least two others.

¶5. (C) Marinkovic entered the United States in January, and he has not appeared for at least two court-ordered hearings. His lawyer, Eric Seifert, has complained that prosecutors and government-friendly judges seek to transfer the case "illegally" from Santa Cruz (where the incident occurred) to La Paz. On February 2, a Santa Cruz judge ordered the case moved to La Paz, which caused Seifert to comment that, "there are judges that rule in favor of the government. In this case, we have a judge who breaks the rules... Somehow she read more than 2,000 pages [of the legal brief] in a half hour and made a decision to move the case to La Paz... This is a clear political persecution."

¶6. (C) Ex-Pando Senator and current gubernatorial candidate Paulo Bravo maintained that the MAS is targeting opposition leaders. "This is just the tip of the iceberg, and it's not about a quest for justice," he told us. In a separate conversation, Santa Cruz political and business leader Carlos de Chazal predicted that "the government's persecution will only accelerate after the upcoming April 4 departmental and local elections."

Comments

¶7. (C) Despite the dire warnings of the opposition and the over-heated rhetoric of President Morales and other GOB officials, the charges in the most prominent cases, such as that of Reyes Villa, seem plausible. UN High Commission for Human Rights Representative Dennis Racicot told us prosecutors appear to have prima facie corruption cases against Reyes Villa, but said UNHCHR will follow the actions against him from a due process perspective. Reyes Villa was widely viewed as corrupt during his tenure as Cochabamba prefect. Similarly, several sources tell us that, while they may dispute the extent of their involvement and their ultimate intent, some of Santa Cruz's political and business leaders (members of the "roundtable" and the "tower" groups among them) appear to have been involved in bringing alleged terrorist leader Rozsa to Bolivia.

¶8. (C) With the MAS holding more than two-thirds of the votes, it is practically a fait accompli that the Plurinational Assembly will nominate pro-MAS judges and magistrates to head the Supreme Court and the Constitutional Tribunal, and that the MAS will seek to increasingly control the judiciary. However, at least until recently, there were many members of the judiciary that were

stauchly pro-opposition as well. Racicot noted that the constant jurisdictional battles in criminal cases (La Paz versus Santa Cruz) reflected the political polarization within the judiciary. We will work with the UNHCR and interested countries to watch whether the changes in the judiciary lead to political prosecutions of opposition leaders without regard for due process.

Creamer